

CALIFORNIA COASTAL COMMISSION

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W8a

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Staff: SM-SC

Previous Coastal Commission Actions & Dates

Project approved w/ conditions 1/14/2004

Revised Findings

Revised findings staff report prepared.. 5/19/2004

Revised findings hearing date..... 6/9/2004

REVISED FINDINGS**COASTAL DEVELOPMENT PERMIT APPLICATION 3-03-029**

Applicant.....Ed Kwiatkowski

Project location1805 Sunset Drive, Pacific Grove, Monterey (APN 07-072-12).

Project description.....Replace existing 1,776 square foot residence and 861 square foot garage on 26,215 square foot lot with residence having 5,257 square feet of floor area and a 3,793 square feet of footprint (not including driveway and outdoor uses), involving approximately 500 cubic yards of grading. As approved by the City of Pacific Grove, the project also includes restoration and maintenance of all areas of the site outside the development envelope as native dune habitat.

	Existing (Project Site = 26,215 sq. ft.)	Proposed
Building Coverage (Home and garage)	2,637 sq. ft. (10.1%)	3,793 sq. ft. (14.5%)
Other Site Coverage (Driveways and impervious surfaces)	3,135 sq. ft. (12%)	2,187 sq. ft. (8.3%)
Outdoor Living Area (Backyard, landscaped, and pervious areas)	2,034 sq. ft. (7.8%)	602 sq. ft. (2.3%)
Total Lot Coverage	7,806 sq. ft. (29.8%)	6,583 sq. ft. (25.1%)

Local approval.....City of Pacific Grove Use Permit No. 2670-00, Variance No. 01-1613, and Tree Removal Permit No. CDD 3484

File documents.....Coastal Development Permit Application File 3-03-029; City of Pacific Grove Certified Land Use Plan.

Commissioners prevailing...Burke, Hart, Iseman, Kruer, Nava, Nichols, Peters, Potter, Wan, Woolley, Reilly



California Coastal Commission
June 9, 2004 Meeting in San Pedro

Staff: SM Approved by:

Staff note: On January 14, 2004, the Coastal Commission approved Coastal Development Permit 3-03-029, authorizing residential development at 1805 Sunset Drive, in the Asilomar Dunes residential neighborhood of the City of Pacific Grove. As part of that action, the Commission modified a condition recommended by staff that required a reduction in lot coverage, to allow for the lot coverage approved by the City. This report contains revised findings reflecting the Commission's action. Coastal Act Section 30315.1 states that the adoption of findings for any action taken by the commission requires a majority vote of the members from the prevailing side present at the meeting of the commission, with at least three of the prevailing members present and voting.

Synopsis of the Coastal Commission's January 14, 2004 action: The approved project involves the replacement of an existing 2,637 square foot residence and detached garage with a new residence and attached garage of 3,793 square feet. The project site is bounded by the Asilomar State Conference Center to the south, and Sunset Drive and Asilomar State Beach to the west. This area of the Asilomar dunes complex is protected by the Pacific Grove certified Land Use Plan (LUP) as an environmentally sensitive habitat area (ESHA). Because the City of Pacific Grove does not have a certified Implementation Plan, the Chapter 3 policies of the Coastal Act are the standard of review, with the LUP providing guidance.

The Commission found the project to be consistent with Coastal Act Section 30240 because redevelopment will be focused within the currently developed area, and because existing site coverage will be reduced in a manner that essentially conforms to the guidance for new development provided by the LUP. The Commission conditioned the permit to ensure that construction activities protect surrounding habitat and recreation areas, and to provide for the restoration and permanent protection of the dune habitat areas outside of the development's footprint.

To protect scenic resources consistent with Coastal Act Section 30251, the Commission conditioned the permit to require that utilities be placed underground. To protect coastal water quality consistent with Coastal Act Policy 30231, the Commission also attached conditions requiring drainage controls and best management practices during and after construction. Finally, the Commission addressed Coastal Act Policy 30244 regarding archaeological and paleontological resources, by requiring the implementation of specific monitoring and mitigation measures. With these conditions, the Commission found the development to be consistent with the Chapter 3 policies of the Coastal Act.

Summary of Staff Recommendation: Staff recommends that the Commission adopt the following revised findings in support of the Commission's action to approve Coastal development Permit No. 3-03-029 on January 14, 2004.



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I. Staff Recommendation on Revised Findings



Staff recommends that the Commission adopt the following revised findings in support of its approval of Coastal Development Permit 3-03-029 on January 14, 2004.

Motion: *I move that the Commission adopt the revised findings in support of the Commission's action of January 14, 2004, approving Coastal Development Permit Application No.3-03-029 with conditions.*

Staff Recommendation of Approval: Staff recommends a **YES** vote. Passage of this motion will result in the adoption of revised findings as set forth in this report. The motion requires a majority vote of the members from the prevailing side present at the January 14, 2004 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

Resolution to Adopt Revised Findings. The Commission hereby adopts the findings set forth below for approval of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on January 14, 2004 and accurately reflect reasons for it.

II. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.



B. Special Conditions

1. **Incorporation of City's Mitigation Requirements.** The Mitigations and Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project are attached as Exhibit 4 to this permit; these mitigations are hereby incorporated as conditions of this permit.

Any revision or amendment of these adopted conditions and mitigation measures or the project plans as approved pursuant to the City's architectural review procedures shall not be effective until reviewed by the Executive Director for determination of materiality, and if found material, approved by the Commission as an amendment to this coastal development permit.

2. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of final plans, for the Executive Director's review and approval, which modify and supplement the plans submitted with the application (prepared by Case Associates, dated 2/24/03) as follows:

- (a) **Lot Coverage.** All aspects of the development within a building envelope defined by the footprint of the residential development approved by the City of Pacific Grove.
- (b) **Grading.** Final plans shall include a revised grading plan that limits all grading activities to the area within and immediately adjacent to the building envelope identified pursuant to subsection (a), above, with one exception: sand to be excavated to accommodate the development may be placed outside of the building footprint in a manner that replicates surrounding natural dune forms, provided that it is free of impurities or previously imported soil or fill material. The grading plan shall be accompanied by a determination by a qualified biologist or landscape professional that the any changes to existing site contours, outside of the building envelope, will support and enhance the restoration of natural habitat values. In no case shall the placement of sand block views of the ocean available from the Asilomar Conference Center grounds.
- (c) **Drainage and Erosion Control.** Final plans shall include a drainage and erosion control plan that incorporates the following provisions:

Implementation of Best Management Practices During Construction. The Drainage and Erosion Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook, and shall be located entirely within the building envelope specified in accordance with subsection (a) above to the maximum degree feasible. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept,



filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills.

The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the applicant shall delineate that the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

Post Construction Drainage. Plans to control drainage after construction shall retain runoff from the roof, driveway, decks, and other impervious surfaces shall onsite to the greatest degree feasible. Runoff shall be captured and directed into designated pervious areas, percolation pits or appropriate storm drain systems. Drainage shall not be directed onto Sunset Drive or Asilomar Conference Center grounds. The drainage plan shall demonstrate that the pervious areas, percolation pits, or drainage systems are sized and designed appropriately to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (>85% storm) excess runoff shall be conveyed off-site in a non-erosive manner.

- 3. Dune Habitat Restoration Landscaping Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval, two sets of dune habitat restoration plans for the entire lot outside of the building envelope designated pursuant to Special Condition 2. The restoration plan shall be prepared using California native plant species appropriate to the site. The plan shall include an analysis by a qualified expert that considers the specific condition of the site including soil, exposure, temperature, moisture, and wind, as well as restoration goals. At a minimum, the plan shall demonstrate that:

- (a) All vegetation planted on the site will consist of dune plants native to the Asilomar area,
- (b) All required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan, and
- (c) Final contours of the site, after project grading, will support restoration efforts.

The plans shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system (if any), topography of the



developed site, and all other landscape features, and

- (b) A schedule for installation of plants within the first growing season after completion of construction.

Installation of all plants shall be completed prior to occupancy of the new home. Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter from the project biologist indicating that plant installation has taken place in accord with the approved restoration plans and describing long-term maintenance requirements for the restoration. At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently, to identify and correct any restoration and maintenance issues.

Five years from the date of completion of the addition, the Permittee or successors in interest shall submit, for the review and approval of the Executive Director, a restoration monitoring report, prepared by a qualified specialist, that certifies the on-site restoration is in conformance with the approved plan along with photographic documentation of plant species and plant coverage.

If the restoration monitoring report or biologist's inspections indicate the landscaping is not in conformance with or has failed to meet the performance standards specified in the Dune Habitat Restoration Mitigation Plan approved pursuant to this permit, the Permittee or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified specialist, and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. These measures, and any subsequent measures necessary to carry out the approved landscape plan, shall be carried out in coordination with the Executive Director until the approved landscaping is established to the Executive Director's satisfaction.

- 4. Open Space Restriction.** No development, as defined in section 30106 of the Coastal Act shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive director issues for this permit except for:

1. Necessary utility lines to serve the residence.
2. Restoration, landscaping and monitoring activities conducted in accordance with the approved Dune Habitat Restoration Landscaping Plan prepared for the subject property as required by Special Condition 3.
3. Fencing approved pursuant to Special Condition 5.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicant shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, which shall include all areas of this site outside of the development envelope authorized by Special Condition 2(a).



5. Fencing. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall satisfy the following requirements:

- A. Plans for temporary exclusionary fences to protect sensitive areas from disturbance during construction. Vehicle parking, storage or disposal of materials shall not be allowed within the exclusionary fences. Fences shall be installed prior to the start of construction and shall remain in place and in good condition until construction is completed.

The exact placement of the temporary exclusionary fencing shall be identified on site by the project biologist/environmental monitor required by Special Condition 7, below. Evidence that the monitor has inspected and approved the construction fence shall be submitted to the Executive Director PRIOR TO COMMENCEMENT OF CONSTRUCTION. Fences shall be 4 feet high and secured by metal T-posts, spaced no more than 8 feet apart. Either mesh field fence or snowdrift fence, or comparable barrier shall be used.

- B. Plans for any permanent landscaping fence, should they be necessary to discourage trampling of the area to be restored outside of the building envelope, shall require the Executive Director's review and approval, and may require an amendment to this permit. Fencing design submittal shall include evidence of review and approval by the City of Pacific Grove. No permanent fencing, other than the fencing approved by the Executive Director pursuant to this condition, may be installed on the site without an amendment to this permit.

6. Archaeological Mitigation. A qualified archaeological monitor and Native American representative approved by the Executive Director PRIOR TO THE COMMENCEMENT OF CONSTRUCTION shall be present during any demolition, construction or pre-construction activities that involve ground disturbance, such as removal of existing foundations or utilities. Should archaeological resources be discovered at the project site during any phase of construction, the permittee shall stop work until a mitigation plan, prepared by a qualified professional archaeologist in coordination with interested Native Americans, is completed and implemented. Prior to implementation, the mitigation plan shall be submitted for review and approval by the State Historical Preservation Office and for review and approval by the Executive Director of the Commission. The plan shall provide for reasonable mitigation of the archaeological impacts resulting from the development of the site, and shall be fully implemented. A report verifying compliance with this condition shall be submitted to the Executive Director for review and approval, upon completion of the approved mitigation.

7. Environmental Monitoring During Construction. Permittee shall employ a project biologist/environmental monitor approved by the Executive Director and the City of Pacific Grove Community Development Director to ensure compliance with all permit conditions and mitigation requirements during the construction phase. Evidence of compliance shall be submitted by the project monitor to the Executive Director each month while construction is proceeding, and upon completion of construction.

8. Utility Connections. All utility connections shall be placed underground, and shall be contained within the building envelope established pursuant to Special Condition 2(a) to the maximum extent



feasible. When installing any new utility connections, care shall be taken to avoid and minimize disturbance outside of the building envelope, among other ways, by employing the best management practices specified pursuant to Special Condition 2(c).

- 9. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant’s entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The project is located at 1805 Sunset Drive, within the Asilomar Dunes neighborhood of the City of Pacific Grove. The property is bordered by the Asilomar Conference Grounds to the south, Sunset Drive and Asilomar State Beach to the West, and residential properties to the north and east. Please see Exhibit 1 for a map of the project location. The parcel is located in an area zoned R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet. Development within the surrounding neighborhood is characterized by one and two-story single-family dwellings. The subject 26,215 square foot lot currently supports a 1,776 square foot house with a detached 861 square foot garage, two gravel driveways of 766 and 1923 square feet, outdoor impervious surfaces totaling 446 square feet, and a landscaped fenced rear yard of 2,034 square feet current commits 7.8% of the lot to outdoor living. Thus, existing site coverage is 7,806 square feet, or 29.8% of the lot.

The site is within the Asilomar sand dune complex, which is considered an environmentally sensitive habitat area by the City’s Land Use Plan (LUP), certified in 1991. This is due in part to the existence of plant and animal species of special concern that have evolved and adapted to the harsh conditions found in the Asilomar Dunes system. Increasing development pressure has reduced the amount of available



habitat, and thus the range of these species. The project site is also visually significant, as it can be seen from Sunset Drive, as well as from dune boardwalks and an overlook within the Asilomar Conference Grounds. Both Sunset Drive and the conference center attract large number of visitors, and provide important coastal access and recreation opportunities to the public. Finally, the site is within an archaeological sensitive area; the LUP recognizes that there is a likelihood of prehistoric cultural resources throughout the Pacific Grove Coastal Zone.

2. Project Description

The proposed development will replace the existing one-story 1,776 square foot residence and 861 square foot garage with a larger split-level residence having a structural coverage of 3,793 square feet and gross floor area of 5,257 square feet (including a below grade garage and storage area). (Project plans attached as Exhibit 2). Grading to accommodate the residence requires the excavation of approximately 500 cubic yards of sand, which will be placed between the new structure and Sunset Drive in a manner intended to reflect a natural dune landform. Two existing gravel driveways totaling 2,689 square feet will be replaced with a new decomposed granite driveway totaling 1,647 square feet. With additional coverage of 374 square feet, and a 602 square foot fenced and landscaped back yard, the application proposes to commit 25.1% of the site (6,582 square feet) to residential use. As proposed by the applicant and conditioned by the City of Pacific Grove, the remainder of the site will be restored and protected as native dune habitat.

3. Project Background

Local review of the proposed project began 2001, and the City of Pacific Grove approved the project, subject to conditions attached as Exhibit 4, on February 5, 2003. On November 19, 2001, the Commission staff submitted to the City regarding the Negative Declaration prepared pursuant to the California Environmental Quality Act. These comments, which are attached as Exhibit 5, informed the City and the applicant of the Commission staff's position that redevelopment of the site should comply with LUP coverage limitations, and be focused in areas of existing disturbance. The Commission staff later met with the applicant to discuss these comments, and was subsequently provided with revised plans intended to respond to these issues. On January 15, 2002, the Commission staff sent a letter to applicant's architect (also attached in Exhibit 5), expressing concern that the revised plans still did not comply with LUP coverage standards.

B. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified LCP. The City's Land Use Plan (LUP) was certified in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. The City is currently working to complete the IP. Because the City does not yet have a certified LCP, the Coastal Commission must issue coastal development permits, with the standard of review being the Coastal Act, although the certified LUP may serve as an advisory document.



C. Issue Analysis

1. Environmentally Sensitive Habitat Areas

a. Applicable Environmentally Sensitive Habitat Area (ESHA) Policies

Coastal Act Section 30240, states:

30240(a)...*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The Coastal Act, in Section 30107.5, defines an environmentally sensitive area as

30107.5...*any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

While Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City's LUP also provides guidance to the Commission as it considers proposals for development in the Asilomar Dune neighborhood. With regards to environmentally sensitive habitat areas, the LUP contains the following relevant policies:

LUP Policy 2.3.5.1. *New development in the Asilomar dunes area (bounded by Asilomar Avenue, Lighthouse Avenue, and the boundary of Asilomar State Park) shall be sited to protect existing and restorable native dune plant habitats... No development on a parcel containing esha shall be approved unless the City is able to find that, as a result of the various protective measures applied, no significant disruption of such habitat will occur.*

LUP Policy 2.3.5.1.d. *The alteration of natural land forms and dune destabilization by development shall be minimized. Detailed grading plans shall be submitted to the City before approval of coastal development permits.*

LUP Policy 2.3.5.1.e *If an approved development will disturb dune habitat supporting or potentially supporting Menzies' wallflower, Tidestrom's lupine or other rare or endangered species, or the forest front zone along Asilomar Avenue south of Pico Avenue, that portion of the property beyond the approved building site and outdoor living space (as provided in section 3.4.5.2) shall be protected by a written agreement, deed restrictions or conservation easement granted to an appropriate public agency or conservation foundation. These shall include provisions which guarantee maintenance of remaining dune habitat in a natural state, provide for restoration of native dune plants under an approved landscape plan, provide for long-term monitoring of rare and endangered plants and maintenance of supporting dune or forest habitat, and restrict fencing to that which would not impact public views or free passage of native*



wildlife. Easements, agreements or deed restrictions shall be approved prior to commencement of construction and recorded prior to sale or occupancy.

LUP Policy 2.3.5.1.g. *Require installation of utilities in a single corridor if possible, and should avoid surface disturbance of areas under conservation easement.*

LUP Policy 3.4.4.1. *All new development shall be controlled as necessary to ensure protection of coastal scenic values and maximum possible preservation of sand dunes and the habitat of rare and endangered plants.*

Section 3.4.5.2 of the LUP specifies the maximum aggregate lot coverage allowed for new development in the Asilomar Dunes area as follows:

LUP Policy 3.4.5.2. *Maximum aggregate lot coverage for new development shall be 15% of the total lot area. For purposes of calculating lot coverage under this policy, residential buildings, driveways, patios, decks (except decks designed not to interfere with passage of water and light to dune surface below) and any other features that eliminate potential native plant habitat will be counted. However, a driveway area up to 12 feet in width the length of the front setback shall not be considered as coverage if surfaced by a material approved by the Site Plan Review Committee. An additional 5% may be used for immediate outdoor living space, if left in a natural condition, or landscaped so as to avoid impervious surfaces, and need not be included in the conservation easement required by Section 2.3.5.1(e). Buried features, such as septic systems and utility connections that are consistent with the restoration and maintenance of native plant habitats, need not be counted as coverage.*

The siting of each new development and the expected area of disturbance around each residence shall be individually reviewed by the Site Plan Review Committee. Such review shall duly consider the minimization of dune destabilization and disturbance to endangered plants and their habitats.

In special cases, up to 20% aggregate lot coverage may be allowed as a conditional use if the City specifically finds that:

a) An offsetting area of native dune plant habitat will be restored and maintained adjacent to the site, such that the total area which will be preserved, restored, and permanently maintained under conservation easement or similar enforceable legal instrument, as provided in Section 2.3.5.1, is equal to at least 80% of the total area of applicant's lot; and,

b) the additional site coverage is essential for protecting public views (i.e., by maximizing front setback in the case of parcels fronting on Sunset Drive), or for avoiding hardships in the case of one-half acre or less which would otherwise suffer in comparison to adjacent similarly sized developed parcels.

b. ESHA Analysis

1. Description of Environmentally Sensitive Habitat



The proposed development is located in the Asilomar Dunes area, an environmentally sensitive habitat area located at the seaward extremity of the Monterey Peninsula. The Asilomar Dunes area is a sand dune complex located west of Asilomar Avenue between Lighthouse Avenue in Pacific Grove and Cypress Point in the Del Monte Forest Area of Monterey County. It extends inland from the shoreline dunes and bluffs through a series of dune ridges and interdune swales to the edge of Monterey pine forest. The unusually pure, white quartz sand in this area was formerly stabilized by a unique indigenous dune flora. However, only a few acres of the original approximately 480-acre habitat area within the City of Pacific Grove remain in a natural state. The balance of the original habitat has been lost or severely damaged by sand mining, residential development, golf course development, trampling by pedestrians, and the encroachment of non-indigenous introduced vegetation.

While a number of preservation and restoration efforts have been undertaken, most notably at the Spanish Bay Resort, Asilomar State Beach, and in connection with previously approved residential developments on private lots, certain plants and animals, characteristic of this environmentally sensitive habitat, have become rare or endangered. The Asilomar Dune ecosystem includes up to ten plant species and one animal species of special concern that have evolved and adapted to the desiccating, salt-laden winds and nutrient poor soils of the Asilomar Dunes area.

The best known of these native dune plants are the Menzie's wallflower, Monterey spineflower and the Tidestrom's lupine, all of which have been reduced to very low population levels through habitat loss and are Federally-listed endangered species. Additionally, the native dune vegetation in the Asilomar Dunes area also includes more common species that play a special role in the ecosystem, for example: the bush lupine which provides shelter for the rare black legless lizard, and the coast buckwheat, which hosts the endangered Smith's blue butterfly. Because of these unique biological and geological characteristics of the Asilomar Dunes, all properties in the Asilomar Dunes area are located within environmentally sensitive habitat areas.

A Dune Habitat restoration Plan and Botanical Survey was prepared by Joey Dorrell-Canepa on June 26, 2000. The survey did not find any threatened or endangered species in the immediate project area. However, the report identified the existence of Tidestrom's lupine in an area covering approximately 900 square feet on the eastern portion of the parcel, approximately 100 feet from the existing house, as shown in the project plans attached as Exhibit 2. While there may not be any endangered plants in the building site presently, the nature of the dune habitat is such that they appear at different locations and times. Thus, the whole area outside of the existing development is considered habitat as it all has the potential to sustain the endangered plants.

The Pacific Grove Land Use Plan describes all dune habitats in this area as being comprised of potential habitat for rare and endangered plants and animals such as Menzie's wallflower and the black legless lizard. The LUP goes on to state that natural dunes which are "presently barren or covered with non-native plants, but are potentially restorable to native plant cover" shall be considered environmentally sensitive. Similarly, as the Commission has often observed, developed areas of dune systems like Asilomar, such as driveways and residences, frequently revert back to dune habitat (self-restore) over time when the development is removed.



Therefore, based upon the surveys and biological report prepared for the property, staff observations, and consistent with the City's LUP and prior Commission actions on other proposed development in the dunes, the Commission finds that the site is environmentally sensitive habitat as defined by Section 30107.5 of the Coastal Act.

2. ESHA Impact Analysis

Coastal Act Section 30240 protects ESHA from significant disruption or degradation, limits development in ESHA to uses dependent upon the resources, and requires development adjacent to ESHA and recreation areas to be compatible with their continuance. To protect the unique and sensitive habitats of the Asilomar dunes, the LUP limits total maximum aggregate lot coverage to no more than 15% of the lot area.¹ Where additional site coverage protects public views by maximizing setbacks from Sunset Drive, such as in this instance, the LUP allows a maximum aggregate lot coverage of 20%. The LUP allows an additional 5% of the lot to be used for outdoor living purposes, provided that is to be left in a natural condition, or landscaped so as to avoid impervious surfaces.

The project conforms to Coastal Act Section 30240 by focusing redevelopment of the site within the currently developed area, and by reducing site coverage in a manner that essentially conforms to LUP guidance for new development in this sensitive dune area. The new residence has a footprint of 3,793 square feet, which is 14.5% of the lot area. Adding the proposed driveway, other impervious surfaces, and the 602 square feet of outdoor living area, the aggregate coverage proposed by the project is 6,582 square feet (25.1% of the lot). This represents a 1,224 square foot (or 4.7%) reduction in existing site coverage.

Given the extent of demolition and new construction involved, the replacement structure should conform to the LUP policies that provide importance guidance to the Commission in carrying out Coastal Act Section 30240. Indeed, it is typical for zoning ordinances to require compliance with all applicable development standards when non-conforming structures are proposed for replacement or significant alteration, as is the case here. Such an approach is necessary to ensure that Coastal Act provisions protecting the rare biological resources of the Asilomar dunes are consistently implemented for both new development and significant redevelopment.

As previously noted, the LUP allows up to 20% aggregate coverage in this instance, because the additional square footage associated with a longer driveway provides for the protection of visual resources. The garage is set back from Sunset Drive further than the standard 75 feet required by the City in order to protect scenic coastal views to and from the adjacent Asilomar State Conference Grounds. As a result, 1,647 square feet (6.3 %) of site coverage is attributable to the driveway.

While the project is eligible for 20% site coverage based on the visual benefits of an increased setback, it is not clear that the proposed coverage is completely consistent with this guideline. The standard method of calculating lot coverage for development along Sunset Drive is to subtract the first 75 feet of

¹ As defined in the LUP, calculation of the maximum aggregate lot coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The LUP exempts the portion of the driveway within the front setback from these coverage limitations.



driveway (i.e., the minimum front setback required by the City) from the calculation of site coverage. Using this approach, the proposed site coverage is 5,832 square feet, or 22.2% of the lot area. Another interpretation is that increased front setback is a visual resource protection requirement of the LUP, and as such, qualifies for front setback driveway exemption provided by LUP Policy 5.3.4.2. This approach yields total site coverage of 19.9%. The 0.3% (600 square foot) difference is not substantial. Essentially, the project complies with the lot coverage guidance provided by the LUP.

Another ESHA issue is the potential for construction activities to disrupt adjacent sensitive habitat areas. Demolition and site clearing will, of necessity, result in some additional disturbance around the perimeter of the existing developed area. The permit therefore requires temporary exclusionary fences to assure that workpeople and materials stay outside sensitive natural habitat areas. Equal precaution must be taken during the installation of utilities.

Restoration and permanent protection of the remainder of the site ensures that the new development will be compatible with the long-term maintenance of the resource. To ensure that the proposed restoration of the dune habitat area surrounding the development is effectively maintained and protected, conditions require the applicant to develop and implement a Dune Habitat Restoration Plan covering all portions of the site outside of the approved development envelope, and to record of a deed restriction providing permanent protection of this area. The deed restriction allows only those uses necessary for, and consistent with, maintenance of the restricted area as a nature reserve under private stewardship. The deed restriction also provides notice to future property owners regarding the constraints and obligations associated with this site. Only with these conditions can long-term protection of the sensitive habitats contained on the site be ensured, consistent with Coastal Act Section 30240.

c. ESHA Conclusion

The development avoids significant disruption of ESHA consistent with Coastal Act Section 30240a by focusing new development within existing developed areas. The project satisfies the requirements of Section 30240b by reducing existing site coverage, and by limiting replacement site coverage in a manner that essentially complies with the guidance provided by LUP. With conditions that provide for the protection of surrounding sensitive habitat during construction, as well as for the restoration, and permanent protection of such habitats, the development is consistent with the ESHA protection requirements of the Coastal Act.



2. Visual Resources

a. Applicable Visual Resources Policies

Section 30251 of the Coastal Act requires that new development in highly scenic areas "such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation. . ." shall be subordinate to the character of its setting; the Asilomar area is one of those designated in the plan. The Coastal Act further provides that permitted development shall be sited and designed to protect views in such scenic coastal areas; and, in Section 30240(b), requires that development adjacent to parks and recreation areas shall be sited and designed to avoid degradation of those areas.

The City's certified Land Use Plan contains the following relevant policies:

LUP Policy 2.5.2. ...Coastal area scenic and visual qualities are to be protected as resources of public importance. Development is required to be sited to protect views, to minimize natural landform alteration, and to be visually compatible with the character of surrounding areas.

LUP Policy 2.5.4.1. It is the policy of the City of Pacific Grove to consider and protect the visual quality of scenic areas as a resource of public importance. The portion of Pacific Grove's coastal zone designated scenic includes: all areas seaward of Ocean View Boulevard and Sunset Drive, Lighthouse Reservation Lands, Asilomar Conference Ground dune lands visible from Sunset Drive, lands fronting on the east side of Sunset Drive; and the forest front zone between Asilomar Avenue and the crest of the high dune (from the north side of the Pico Avenue intersection to Sinex Avenue)

LUP Policy 2.5.5.1. New development, to the maximum extent feasible, shall not interfere with public views of the ocean and bay.

LUP Policy 2.5.5.5. Landscape approval shall be required for any project affecting landforms and landscaping. A landscaping plan, which indicates locations and types of proposed plantings, shall be approved by the Architectural Review Board.

LUP Policy 2.5.5.6. ...Utilities serving new single-family construction in scenic areas shall be placed underground.

LUP Policy 3.4.4.1. All new development in the Asilomar Dunes area shall be controlled as necessary to ensure protection of coastal scenic values and maximum possible preservation of sand dunes and the habitat of rare and endangered plants.

b. Visual Resources Analysis

Coastal Act Section 30251 requires the scenic and visual qualities of coastal areas to be protected as a resource of public importance, among other ways, by protecting views to and along the ocean and scenic coastal areas, requiring visual compatibility, minimizing landform alterations, and restoring degraded areas. In implementing this policy, the LUP identifies the Asilomar dunes as a highly scenic area of



importance, and establishes the development standards cited above to protect these visual resources.

The project site is within the scenic area designated by the LUP, and visible to the many residents and visitors that come to the area to enjoy Sunset Drive, Asilomar State Beach, and the Asilomar Conference Center. Thus, new development on the site must be carefully designed and sited to prevent impacts to these significant coastal views. To meet these requirements, the project has been designed to appear no taller than the existing structure, and has been setback from Sunset Drive to protect public views too and from the Asilomar Conference Center.

c. Visual Resources Conclusion

The proposed project is consistent with Coastal Act and LUP standards that require new development to be compatible with surrounding development, protect the scenic value of the natural dune environment, and avoid interference with views of the bay. Visual resources are also protected by Special Condition 8, which requires utility connections to be placed underground.

3. Water Quality/Marine Resources

a. Applicable Water Quality Policies

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

LUP Policy 2.2.5.2 states:

To reduce the potential for degradation of the ASBS/Marine Gardens, the City shall require, where necessary, drainage plans and erosion, sediment and pollution control measures as conditions of approval of every application for new development.

b. Water Quality Analysis and Conclusion

As recognized by the LUP, the rich and diverse marine habitat along the Pacific Grove Shoreline is an Area of Special Biological Significance (ASBS) designated by the State Water Resource Control Board. The project site is directly across the street these marine habitats. Drainage and stormwater runoff from the site, both during and after construction, has the potential to degrade coastal water quality and diminish biological productivity by contributing sediments and pollutants

Therefore, to carry out Coastal Act and LUP standards above, approval of the development has been



conditioned to require grading and drainage plans that minimize site disturbance, prevent erosion, contain sediments and pollutants, and retain stormwater runoff on site to the maximum degree feasible. Only with this conditions is the project consistent with Coastal Act Section 30231.

4. Archaeological Resources

a. Applicable Archaeological Resources Policies

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Land Use Plan Section 2.4 also provides guidance on this topic as follows:

LUP Policy 2.4.5.1. *Prior to the issuance of any permit for development or the commencement of any project within the areas designated on Figure 3, the Archaeological Sensitivity Map, the City in cooperation with the State Historic Preservation Office and the Archaeological Regional Research Center, shall:*

- (a) Inspect the surface of the site and evaluate site records to determine the extent of the known resources.*
- (b) Require that all sites with potential resources likely to be disturbed by the proposed project be analyzed by a qualified archaeologist with local expertise.*
- (c) Require that a mitigation plan, adequate to protect the resource and prepared by a qualified archaeologist be submitted for review and, if approved, implemented as part of the project.*

b. Archaeological Resources Analysis and Conclusion

The subject site is located within an archaeologically sensitive area designated by the LUP. Accordingly, an archaeological survey was conducted for the subject parcel, and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (February 11, 1999). The report concludes that the parcel contains evidence of potentially significant cultural resources.

Therefore the conditions of permit approval require a qualified archaeological monitor and Native American representative approved by the Executive Director to be present during any demolition, construction or pre-construction activities that involve ground disturbance. If archaeological resources be discovered at the project site during any phase of construction, work must cease until a mitigation plan, prepared by a qualified professional archaeologist in coordination with interested Native Americans, is approved by the State Historical and the Executive Director of the Commission. The plan must provide for reasonable mitigation of the archaeological impacts resulting from the



development of the site, and be fully implemented. Only as so conditioned is the project consistent with Coastal Act Section 30244.

D. Local Coastal Programs

The Commission can take no action that would prejudice the options available to the City in preparing a Local Coastal Program that conforms to the provisions of Chapter 3 of the Coastal Act (Section 30604 of the Coastal Act). Because the Asilomar Dunes neighborhood contains unique features of scientific, educational, recreational and scenic value, the City's Local Coastal Program will need to assure long-range protection of these resources.

While the northern Asilomar Dunes area was originally included in the work program for the Del Monte Forest Area LUP (approved with suggested modifications, September 15, 1983), the area was annexed by the City of Pacific Grove in October, 1980, and therefore is subject to the City's LCP process. Exercising its option under Section 30500(a) of the Coastal Act, the City in 1979 requested the Coastal Commission to prepare its Local Coastal Program. However, the draft LCP was rejected by the City in 1981, and the City began its own coastal planning effort. The City's LUP was certified on January 10, 1991, and the City is currently formulating implementing ordinances. In the interim, the City has adopted an ordinance that requires that new projects conform to LUP policies. (Of course, the standard of review for coastal development permits, pending LCP completion, is conformance with the policies of the Coastal Act.)

The LUP contains various policies that are relevant to the Coastal Act issues raised by this permit application, particularly with respect to protection of environmentally sensitive habitat, scenic resources, water quality and archaeological resources, as addressed in the findings above. The conditions of approval described by these findings are necessary to bring the development into conformance with Coastal Act policies, and are thereby also necessary to prevent approval of the project from prejudicing the ability of the City of Pacific Grove to complete an LCP consistent with Chapter 3 of the Coastal Act. Thus, only as conditioned will approval of the development avoid prejudicing the City of Pacific Grove's ability to prepare and implement a complete Local Coastal Program that is consistent with the Coastal Act.

E. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.



In this case, the City of Pacific Grove approved a Mitigated Negative Declaration for the project that established environmental mitigations that have been incorporated into the terms of this permit by Special Condition 1.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has identified additional mitigations to those required by the City, necessary to address avoid significant adverse impacts to environmental resources such as sensitive habitats, scenic quality, coastal waters, and archaeological materials. Accordingly, the project is being approved subject to conditions that incorporate and expand upon the mitigation measures required by the City. As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

